

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**NIDIA HESTON and ADRIAN
HESTON IV, as next friends for A.H.
Plaintiffs**

v.

**THE AUSTIN INDEPENDENT
SCHOOL DISTRICT and
JENNIFER HARDISON.
Defendants.**

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CIVIL ACTION NO. 1:18-cv-00018

**PLAINTIFFS' UNOPPOSED MOTION TO STAY PENDING PRETRIAL
CONFERENCE AND TRIAL**

NOW COMES Plaintiffs Nidia Heston and Adrian Heston IV, as next friends of A.H., by and through their counsel of record, and files this their *Plaintiffs Unopposed Motion to Stay Pending Pretrial Conference and Trial*, pursuant to Federal Rules Of Civil Procedure 60(b) and in support thereof, respectfully shows the following:

I. BRIEF REVIEW OF THE ARGUMENT

1. The Court GRANTED the District's *Motion To Dismiss* on the grounds Plaintiffs did not satisfy the exhaustion requirements of the *Individuals With Disabilities Education Act*, 20 U.S.C. §1415(l) ("IDEA") before filing suit in federal court. [DE# 42]. Counsel sought an unopposed extension which was denied. [DE# Text Order, 47]. Plaintiffs appealed the case [DE# 48] but the appeal was rejected as untimely.
2. Instead, Plaintiffs filed a *Motion For Relief* [DE 49] pending, in which Plaintiffs have requested the Court use its *judicial eraser*, and GRANT the relief requested.
3. If the motion is denied, Plaintiffs will sever the District defendant and file an appeal with the Fifth Circuit.
4. Further, if the motion is granted further discovery would have to be conducted before this case would be ripe for trial. To hold a trial prior to the ruling on the *Motion for Relief*, solely for Defendant Hardison, would be pointless and a waste of precious judicial resources.

5. In a related vein, there are also dates in the near future for a pretrial conference and trial for the remaining individual Defendant in this matter, Jennifer Hardison.
6. Defendants in this matter are not opposed to this request.
7. It is for all these reasons, that counsel for Plaintiffs requests that the date for the pretrial conference and the trial be stayed pending a decision on the afore-mentioned *Motion for Relief*.

Respectfully submitted,

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REPRESENTATIVES FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that on April 26, 2019, I conferred with counsel for Defendants, who is UNOPPOSED to this motion and the proposed order.

/s/ Martin J. Cirkiel
Martin J. Cirkiel

CERTIFICATE OF SERVICE

This is to certify that on this the 1st day of May, 2019 the foregoing document was filed with the Clerk of the Court for the U.S. District Court. Upon receipt and filing the electronic case filing system will send a "Notice of Electronic Filing" to the following attorneys of record.

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/s/ Martin J. Cirkiel
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